

Environmental Protection Agency

§ 152.25

(c) Products that are intended to exclude pests only by providing a physical barrier against pest access, and which contain no toxicants, such as certain pruning paints to trees.

§ 152.15 Pesticide products required to be registered.

No person may distribute or sell any pesticide product that is not registered under the Act, except as provided in §§ 152.20, 152.25, and 152.30. A pesticide is any substance (or mixture of substances) intended for a pesticidal purpose, *i.e.*, use for the purpose of preventing, destroying, repelling, or mitigating any pest or use as a plant regulator, defoliant, or desiccant. A substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if:

(a) The person who distributes or sells the substance claims, states, or implies (by labeling or otherwise):

(1) That the substance (either by itself or in combination with any other substance) can or should be used as a pesticide; or

(2) That the substance consists of or contains an active ingredient and that it can be used to manufacture a pesticide; or

(b) The substance consists of or contains one or more active ingredients and has no significant commercially valuable use as distributed or sold other than (1) use for pesticidal purpose (by itself or in combination with any other substance), (2) use for manufacture of a pesticide; or

(c) The person who distributes or sells the substance has actual or constructive knowledge that the substance will be used, or is intended to be used, for a pesticidal purpose.

Subpart B—Exemptions

SOURCE: 53 FR 15977, May 4, 1988, unless otherwise noted.

§ 152.20 Exemptions for pesticides adequately regulated by another Federal agency.

The pesticides or classes of pesticide listed in this section are exempt from all requirements of FIFRA. The Agency has determined, in accordance with FIFRA sec. 25(b)(1), that they are ade-

quately regulated by another Federal agency.

(a) *Certain biological control agents.* (1) Except as provided by paragraphs (a)(3) and (a)(4) of this section, all biological control agents are exempt from FIFRA requirements.

(2) If the Agency determines that an individual biological control agent or class of biological control agents is no longer adequately regulated by another Federal agency, and that it should not otherwise be exempted from the requirements of FIFRA, the Agency will revoke this exemption by amending paragraph (a)(3) of this section.

(3) The following biological control agents are not exempt from FIFRA requirements:

(i) A eucaryotic microorganism including, but not limited to, protozoa, algae and fungi;

(ii) A procaryotic microorganism including, but not limited to, Eubacteria and Archaeobacteria; or

(iii) A parasitically-replicating microscopic element, including, but not limited to, viruses.

(4) All living plants intended for use as biological control agents are exempt from the requirements of FIFRA. However, plant-incorporated protectants are not exempt pursuant to this section. Regulations, including exemptions, for plant-incorporated protectants are addressed in part 174 of this chapter.

(b) *Non-liquid chemical sterilants.* A non-liquid chemical sterilant, except ethylene oxide, that meets the criteria of § 152.6(a)(2) with respect to its claims and § 152.6(a)(3) with respect to its use sites is exempted from regulation under FIFRA.

[53 FR 15977, May 4, 1988, as amended at 66 FR 37814, July 19, 2001; 66 FR 64764, Dec. 14, 2001; 72 FR 61027, Oct. 26, 2007]

§ 152.25 Exemptions for pesticides of a character not requiring FIFRA regulation.

The pesticides or classes of pesticides listed in this section have been determined to be of a character not requiring regulation under FIFRA, and are therefore exempt from all provisions of FIFRA when intended for use, and used, only in the manner specified.